

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**

**FOR: HEALTH CARE FINANCING ADMINISTRATION**

1. TRANSMITTAL NUMBER:  
**03-018**

2. STATE  
Washington

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE  
SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

**RECEIVED**

4. PROPOSED EFFECTIVE DATE  
Sept. 30, 2003

5. TYPE OF PLAN MATERIAL (Check One):

**SEP 29 2003**

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

7. FEDERAL BUDGET IMPACT:

a. FFY 2003 (\$50,000)

b. FFY 2004 (\$782,646)

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Numbered pages section, page 53a  
Attachment 4.17-A, pages 1, 2b, 2c, 2d

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):

Numbered pages section, page 53a  
Attachment 4.17-A, pages 1, 2b, 2c, 2d

*Washington (03-018)*  
*Approved: 12/23/03*  
*effective: 09/30/03*

10. SUBJECT OF AMENDMENT:

Services Subject to Recovery

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED: Exempt

12. SIGNATURE OF STATE AGENCY OFFICIAL:

*Dennis Braddock*

13. TYPED NAME:

DENNIS BRADDOCK

14. TITLE:

Secretary

15. DATE SUBMITTED:

*9/26/03*

16. RETURN TO:

Department of Social and Health Services

Attn: Ann Myers

Medical Assistance Administration

925 Plum St SE MS: 45533

Olympia, WA 98504-5533

**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED: **SEP 29 2003**

18. DATE APPROVED: **DEC 23 2003**

**PLAN APPROVED - ONE COPY ATTACHED**

19. EFFECTIVE DATE OF APPROVED MATERIAL:

**SEP 30 2003**

20. SIGNATURE OF REGIONAL OFFICIAL:

*TS*

21. TYPED NAME:

*Karen S. O'Connor*

22. TITLE:

**Associate Regional Administrator**

**Division of Medicaid &**

**Children's Health**

23. REMARKS:

*Postmarked: 9/26/03*

*Olympia*

Revision: HCFA-PM-95-3  
MAY 1995

(MB)

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

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(b) Adjustments or Recoveries

The State complies with the requirements of section 1917(b) of the Act and regulations at 42 CFR 433.36(h)-(i).

Adjustments or recoveries for Medicaid claims correctly paid are as follows:

- (1) For permanently institutionalized individuals, adjustments or recoveries are made from the individual's estate or upon sale of the property subject to a lien imposed because of medical assistance paid on behalf of the individual for services provided in a nursing facility, ICF/MR, or other medical institution.

— Adjustments or recoveries are made for all other medical assistance paid on behalf of the individual.

- (2) The State determines "permanent institutional status" of individuals under the age 55 other than those with respect to whom it imposes liens on real property under §1917(a)(1)(B) (even if it does not impose those liens).

- (3) For any individual who received medical assistance at age 55 or older, adjustments or recoveries of payments are made from the individual's estate for nursing facility services, home and community-based services, and related hospital and prescription drug services.

X In addition to adjustment or recovery of payments for services listed above, payments are adjusted or recovered for other services under the State plan as listed below:

All Medicaid services listed in Attachments 3.1-A and 3.1-B provided to eligible clients.

TN No. 03-018  
Supersedes  
TN NO. 95-15

Approval Date DEC 23 2003

Effective Date 9/30/03

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LIENS AND ADJUSTMENTS OR RECOVERIES

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1. The state uses the following process for determining that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home:

The department shall consider the client's statement of intent to return home as controlling evidence.

2. The following criteria are used for establishing that a permanently institutionalized individual's son or daughter provided care as specified under regulations at 42 CFR 433.36(f):

The department shall accept documentation from the client:

That the client's child lived in the client's home for two years immediately before the institutionalization of the client; and

Provided care to the client which allowed the client to remain in the client's home.

3. The state defines the terms below as follows:

**Estate** means:

- All real and personal property and any other assets that pass upon the client's death under the client's will or by intestate succession.
- An estate also includes:

For a client who died after June 30, 1995 and before July 27, 1997, nonprobate assets, except property passing through a community property agreement; or

For a client who died after July 27, 1997, nonprobate assets.

- The value of the estate shall be reduced by any valid liability against the deceased client's property at the time of death.

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6. (Cont.)

- Because the costs of estate administration may deplete an estate valued at \$3,000 or less, each such case is evaluated individually to determine cost effectiveness.
- After consultation with the Attorney General's Office, claims rejected (disallowed) in probate court are evaluated individually to determine if initiating legal action is cost effective.

7. The state uses the following collection procedures (include specific elements contained in the advance notice requirement, the method for applying for a waiver, hearing and appeals procedures, and time frames involved):

Advance Notice Requirement:

The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of a client.

When the department seeks to recover from a client's estate the cost of medical assistance provided to the client, prior to filing a lien against the deceased client's property, the department shall provide notice to:

- The probate estate's personal representative, if any; or
- Any other person known to have title to the affected property.

Prior to filing a lien against any of the deceased client's property, the department shall provide ascertained titled property owners notice and an opportunity for an adjudicative proceeding. The department shall serve upon ascertained titled property owners a notice of intent to file lien, which shall state:

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7. (Cont.)

- The deceased client's name, social security number, if known, date of birth, and date of death;
- The amount of Medicaid services correctly paid on behalf of the deceased client the department seeks to recover;
- The department's intent to file a lien against the deceased client's property to recover the Medicaid services correctly paid on behalf of the deceased client;
- The county in which the property is located; and
- The ascertained titled property owner's right to contest the department's decision to file a lien by filing an application for an adjudicative proceeding with the Office of Financial Recovery and provide an adjudicative proceeding to determine whether:
  - The amount of Medicaid services correctly paid on behalf of the deceased client alleged by the department's notice of intent to file lien is correct; and
  - The deceased client had legal title to the property at the time of the client's death.

An application for an adjudicative proceeding must:

- Be in writing;
- State the basis for contesting the department's notice of intent to file lien;
- Be signed by the applicant and state the applicant's address and telephone number;
- Be served on the Office of Financial Recovery

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TN# 03-018  
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TN# 99-05

Approval Date:

DEC 1 2003

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7. (Cont.)

within twenty-eight days of the date the applicant received the department's notice of intent to file lien. An application filed up to thirty days late may be treated as timely filed if the applicant shows good cause for filing late; and

- Be served on the Office of Financial Recovery in a manner which shows proof of receipt, such as personal service or certified mail, return receipt requested.

Upon receipt of an application for an adjudicative proceeding, the department shall provide notice of the proceeding to all other ascertained titled property owners.

If no ascertained titled property owner files an application for the adjudicative proceeding within twenty-eight days of the date the department served a notice of intent to file lien, the department may file a lien against the deceased client's property for the amount of Medicaid services correctly paid on behalf of the deceased client alleged in the notice of intent to file lien.

Method of Applying for a Waiver, Hearing and Appeals Procedures, and Time Frames Involved: Same as 4. and 5., above.